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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/716,156	11/20/2000	Thomas Mason	2154/4/00	6732

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EXAMINER

D ADAMO, STEPHEN D

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 11/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SW

Office Action Summary

Application No.

09/716,156

Applicant(s)

MASON ET AL.

Examiner

Stephen D'Adamo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Gleckler et al (4,772,068).

Gleckler discloses In Figures 1 and 7 an adjustable chair, including all the features of the claimed invention. The chair has an elongated rod 12, 39 attached to a “U”-shaped seat frame 11, 37 and a “U”-shaped back frame 15, 42. The seating surface has two lateral arms 20, 43 joined to the back frame by fasteners 21. The forward and rear leg members join the armrest in the proper locations with fasteners 31, 37 and 19, 45. Moreover, the telescoping features of Gleckler accommodate the ratio limitations with the forward member and rear member, as claimed in both claim 1 and claim 12.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 3-10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gleckler et al (4,772,068) in view of Lippert (3,994,529).

Gleckler discloses an adjustable chair including most of the mechanical features in the present invention. However, Gleckler fails to include details in the construction elements and fabrics used on the chair. In regards to claims 3 and 7-10, Lippert discloses a stadium seat with "tubular members of aluminum" (col.2, line 24). With regards to claims 4-6, Lippert also teaches of "fabric strips 25 and 26 interwoven and connected to the members 22-24, as shown [in Figure 1]. The fabric may consist of plastic material" (col.2, lines 21-23). Lippert further teaches in col. 1, lines 58-64, "the chair assembly has utility not only as a stadium chair but also as a beach or lounge chair; further, the chair assembly is characterized by simplicity, portability, and collapsibility, light weight construction, ease of set up and collapse in each of its utility modes; adaptation to different size stadium seats or benches, and high strength." It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the different materials for fabrics and tubular frames, as taught by Lippert, for modifying Gleckler's adjustable chair. Furthermore, from Lippert's teachings, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use Gleckler's chair from other utilities, keeping the same structure.

Claims 11 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gleckler et al (4,772,068) in view of Sudbury Taylor Rental.

Regarding claim 11, Gleckler discloses the structure, as rejected above for claims 1 and 12, however, Gleckler does not teach of a method for renting the chairs. Sudbury Taylor

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Rental teaches of renting chairs. It would have been obvious to one having ordinary skill in the art at the time the invention was made to rent the chairs Gleckler, as taught by Sudbury Taylor Rental.

In regards to claims 13-15, the method disclosed for renting is old and well known. The office takes official notice that the method of using a computer for storing data, a scannable bar code, a bar code reader, a credit card transaction, and an electronic signature are old and well known in the art and would have been obvious to use with the method of renting Gleckler's adjustable chairs.

Response to Arguments

3. Applicant's arguments filed May 24, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., footrest) are disclosed in Gleckler's invention. Gleckler's invention provides a horizontal bar in the front and rear of the seat. The front horizontal bar is located at the bottom of the U-shaped member 48 while the rear horizontal bar is located at the bottom of the extension member 23. Both horizontal bars act footrests if the user places at least one foot along the horizontal portion. Further, the originally filed Specification acknowledges that, "one skilled in the art will recognize the similarity between the collapsible, portable bleacher chair 10 of the present invention and a common folding lawn chair" (page 14). Further, "such a folding lawn chair would be not be suitable for the present purposes because the rear legs of a common lawn chair would interfere with

the bleacher structure, and the seat portion would not be able to rest on the bleacher portion” (page 14). However, Gleckler teaches of rear legs that are height adjustable, therefore, the rear legs would not interfere with the bleacher structure, thus allowing the seat portion to rest on the bleacher seating. The Specification continues, “there are forms of folding chairs with shorter rear legs, but these constructions are intended for a mere recumbent position on a relatively level surface.” Yet, again, the chair of Gleckler is adaptable for inclined surfaces, similar to bleachers. Therefore, one skilled in the art, specifically Gleckler, has overcome these obstacles mentioned in the Specification and discloses a chair similar to the claimed invention.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The cited art of Lippert is used to teach a chair that can be used as multiple utilities, without changing the structure. Further, Lippert is used, in combination to teach various materials for fabrics and tubular frames. Lippert is not used to teach of a footrest or u-shape clips.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wilson (5,494,333) and Harp (3,594,039) both show various features of the claimed invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 7:00-4:30, 2nd Friday 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1018.

SD

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November 14, 2003


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600